



Insurance Department

State of Utah

GARY R. HERBERT

Governor

GREG BELL

Lieutenant Governor

TODD E. KISER

Acting Commissioner

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: September 9, 2013 **Time:** 9:00 AM **Place:** East Bldg, Spruce Room

MEMBERS

(Attendees = x)

COMMISSION MEMBERS

xChair, Kirk Smith, *Weber Cnty*

xMatt Sager, *Maricopa Cnty, AZ*

xCo-Chair, Larry Blake, *Washington Cnty*

xSylvia Andersen, *Public Member*

xJeff Wiener, *Salt Lake Cnty*

DEPARTMENT STAFF

xPerri Babalis, *AG Counsel*

xBrett Barratt, *Deputy Comm.*

xMark Kleinfeld, *ALJ*

Suzette Green-Wright, *MC Dir.*

xTammy Greening, *Examiner*

xJilene Whitby, *PIO Recorder*

xRandy Overstreet, *Prod. Lic. Dir.*

PUBLIC

David Moore

Carol Yamamoto

Lincoln Scoffield

Pete Stevens

Roy Poll

Tige Garner

B. Heiner

Russ Nance

James Seaman

Jim Johnson

MINUTES

General Session: (Open to the Public)

- **Welcome** / Kirk Smith, Chair
Kirk began meeting at 9:07am.
- **Intro Sylvia, new commission member**
Kirk welcomed Sylvia Andersen. She gave a brief summary of her background and experience.
- **Adopt Minutes of Previous Meeting**
Motion by Larry to approve the minutes, seconded by Matt and the vote was unanimous.
- **Reports**
 - **Concur with Licensee Report for August** / Tammy
Licensee report was not available. It will be included in next month's report.
 - **Concur with Complaint & Enforcement Report** / Tammy
Tammy explained the report to Sylvia. Kirk said that the time between open and close dates is much shorter than in years past. Brett noted that old cases had been eliminated.
 - Tammy said I-case were opened by the Market Conduct Division. Not all become E-cases. A lapsed license starts as an I-case. An investigation will determine the number of closings performed during lapse period. If there are violations then the I-case could become an E-case. A Letter of Recommendation is sent to the respondent. If the person disagrees with the recommendations, the case goes to a prehearing. A Stip and Order is a part of an I-case and if agreed to, then goes to E-case. All E-cases start as I-case. Not all I-case go to E-cases.
 - Commission asked if E-cases could be tied to I-case by number.
 - **Motion** by Jeff to approve report and if possible, include E-case number in investigation summary closed report, seconded by Larry, vote was unanimous.
 - **Request for Dual Licensee Expedited Request:** None

- **Request for Attorney Exemption: Brett R. Blood**
During law school in Texas Brett performed real estate transactions and escrow searches. Currently he is working on a recon trust issue through the Supreme Court. If approved by the Commission he will go into the title business as an agency with his partner working with Attorney's Title and First Security Title. Matt made a **motion** to approve request, seconded by Sylvia, vote was unanimous.
- **Administrative Proceedings Action / ALJ**
 - **Stipulation & Order:** None
 - **Request for a Hearing:** None
 - **Order to Show Cause:** None
 - **Informal Adjudicative Proceeding & Order:** None
 - **Formal Adjudicative Proceeding & Prehearing Conference:**
 - **Williams Title Guaranty and Escrow Agency, LTD, Inc.**
Mark said this case was filed by the AG's office. Prehearing was set for September 30. Mark will conduct the hearing. Does the Commission want to sit as fact-finders? The matter may be resolved prior to hearing. Respondent did not agree to the recommendation so a pre-hearing needs to be scheduled. If no agreement then a formal hearing will be scheduled. This is a trust fund issue. Jeff asked if the recommendation could be changed prior to the hearing. Mark said yes.
 - ❖ Larry made a **motion** to hear the case on the date the Commission meets, Jeff seconded it and the vote was unanimous.
 - ❖ Sylvia would like to see case numbers that could be followed from beginning to end of the process. Pattern could be discerned.
- **Old Business**
 - **Discuss Proposed Rule Amendments to [R592-2-7\(2\)](#) / Perri**
 - **Perri to verify changes are consistent with the code.**
Perri verified that the law does not allow person to conduct business during grace period after license has lapsed.
 - Matt said the rule should allow for informal proceeding during first 30 days after license lapses and formal proceeding after 60 days. Tammy said a lapsed license is not a violation. Doing business with a lapsed license is a violation.
 - Jeff asked what procedures the Department was using now. Some investigation may be necessary. Randy explained that the Department waits 30 days before sending lapse notices to be sure CE credits and actions in other states against licensees are processed. Tammy said Market Conduct Division looks for non-payment issues, anything on hold, to see if person has tried to pay, and if it looks like they could be transacting business without a license. Dave said CE providers have two weeks to put credits on SIRCON. Licensees are notified electronically 75 days prior to renewal date, which is the licensee's birthdate.
 - No more than \$2,500 can be fined per individual per violation. Brett referred commission to matrix that was stapled into their folders. There is another guideline for failure to pay. Matrix is to be left in file. Do not share it with others. The Department will include information about lapsed licenses and recommended fines for number of closings conducted with a lapsed license.
 - Larry asked about pursuing set dollar amount for lapsed licenses. Tammy noted that if license lapses, the reinstate fee of \$155 is higher than the renewal fee of \$75.
 - Many licensees are failing to update Department with their new email addresses. Perri suggested focusing on this group and fining them.
 - Matt said licensees whose license has lapsed more than once and have more than once been found to be doing business without a license should go to a formal proceeding.

- David suggested that lapsed marketing reps could be causing more damage than lapsed producer.
- Pete suggested department send out email and mail. Randy said the letter sent 30 days after lapse is sent by mail. Many states are going electronic. Sylvia said department should be able to tell if a person has opened email or if it has not arrived. Randy said that about 9 months ago he asked SIRCON to allow renewal notices be sent to insurer and agency. They have not allowed this yet. **Brett will check to see what hold-up is.**
- Randy said the penalty is the increased cost of the reinstatement fee. Responsibility to renew is on the shoulders of licensee, not the Department.
- **Larry suggested Matt, Perri and Brett meet to work on changes to rule before next meeting.**
- Joseph suggested looking on annual report for person responsible for licensing.
- **Discuss Penalty Guidelines next month.**
- **Discuss Issue of Providing Lenders with Disbursement Schedules, Canceled Checks and Access to all Records, Post Closing / Larry**
 - **Feedback from ULTA.**

Joseph reported that ULTA is at an impasse regarding split closings. They do not know how to comply with lender requirements or how money can be divided.

 - ❖ Kirk thought one designated person could handle the funds and to another the escrow. Larry said instructions don't allow you to send money to another party. Jeff said split closings have been around 22 years.
 - ❖ David said that the CFPB will be writing rules. Jeff said that Alta was heavily involved in discussions. Jeff said that once CFPB makes their decision we will be given a year to become compliant. We should not jump ahead of what CFPB decides.
 - ❖ Jeff made a **motion** to focus on rule now, table disbursement issue, and don't take on spit closings. Seconded by Matt, Larry opposed, other three members agreed with the motion. Motion passed.
- **Review Revised Bulletin Requiring Rates & Charges to not be Less than Cost of Doing Insurance or Escrow Business / Brett**

Bulletin has been issued and is on the Department's website. It will be distributed to title agencies. Both escrow and title must operate independently, at not less than the cost of doing business. Escrow minimum rates must be filed with the department.
- **New Business**
 - **Determine When a License is Needed to do Search Business / Larry**

He would like suggested code changes for the Department's 2014 bill soon. ULTA needs to take the lead. Language needs to define who has to be licensed.

 - ❖ Brett said that the question is if a title search license is required. It is not required unless the individual is issuing a title commitment or policy. If not engaged in sales, solicitation or writing insurance, it is not needed. David said, if a countersignature is needed, the person needs to be licensed.
 - ❖ Brett said the Department does not want anything in their bill that is controversial and detrimental to its passage.
 - ❖ Larry made a **motion** to be on committee to do this.
 - ❖ Perri said that this did not need to be a Commission function. They can't formally vote to do this. She suggested leaving it to ULTA or the industry.

❖ **Other Business**

Executive Session (Not needed)

General Session: (Not needed)

- ❖ **Adjourn: Motion** by Jeff to adjourn at 11:35am, seconded by Matt.

❖ **Next Meeting:** October 21, Spruce Room

2013 Meeting Schedule in Spruce Room
(2nd Monday except holidays, then 3rd Monday)

Jan 14	Feb 11	Mar 11	Apr 8	May 13	June 10
July 8	Aug 12	Sep 9	Oct 21	Nov 18	Dec 9